

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

DANIEL HOUDE,	)	
Plaintiff	)	
	)	
v.	)	
	)	
ROBERT TURGEON, STEPHEN	)	
GUNNERSON, KEVIN JOHANSON,	)	
MATTHEW D'ANDREA, BRIAN	)	
HALLORAN AND THOMAS C. DUFFY	)	C.A. NO. 05-40075FDS
Defendants	)	

DEFENDANTS' MOTION FOR ALL  
CRIMINAL OFFENDER RECORD INFORMATION  
OF PLAINTIFF DANIEL HOUDE

Now come Defendants Robert Turgeon, Stephen Gunnerson, Kevin Johanson, Matthew D'Andrea, Brian Halloran and Thomas C. Duffy ("Defendants"), by and through their undersigned counsel, and hereby request that this Court issue an Order granting access to all criminal offender record information ("CORI"), as maintained by the Criminal History Systems Board, for Plaintiff Daniel Houde. In support of this request, Defendants state the following:

1. Defendants submit that they should be allowed access to CORI information to determine what information exists relating to the Plaintiff, Daniel Houde's, criminal record in order to prepare an adequate cross-examination of the Plaintiff

and to test the credibility of the Plaintiff's testimony in the above matter.

2. The requested CORI information is discoverable and admissible at trial in this matter. See Fed. R. Evid. 609; see also Schuurman v. Town of North Reading, 139 F.R.D. 276 (D. Mass. 1991)(concluding that prior convictions are admissible to impeach any witness, including a plaintiff testifying in a civil matter, and, therefore, that such plaintiff's criminal record information is reasonably calculated to lead to the discovery of admissible evidence).

3. Attorneys of record have been certified as a class of persons entitled to access to CORI and, absent a Court Order, the State or Federal agencies in control of CORI will not release the requested information.

WHEREFORE, Defendants respectfully request that this Court issue an Order granting access to all of the Plaintiff's criminal record information. A copy of a proposed Order is attached hereto.

CITY OF WORCESTER

By its attorney,

/s/ Janet J. McGuiggan  
Janet J. McGuiggan (BBO#630013)  
Assistant City Solicitor  
City Hall, Room 301  
455 Main Street  
Worcester, MA 01608  
(508) 799-1161

LOCAL RULE 7.1. CERTIFICATION

I, Janet J. McGuiggan, hereby certify that I conferred unsuccessfully with Plaintiff's attorney pursuant to Local Rule 7.1(A)(2) in good faith to resolve the issue that is the subject of this motion.

/s/ Janet J. McGuiggan  
Janet J. McGuiggan  
Assistant City Solicitor

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I served upon all parties of record a copy of: Defendants' Motion for All Criminal Offender Record Information of Plaintiff Daniel Houde; Affidavit in Support of Motion for Plaintiff's Criminal Offender Record Information; and, Proposed Order, upon Plaintiff, via email through the Court's electronic filing system (ECF) to all registered participants and via first class mail to all non-registered participants on this 21st day of January, 2008.

/s/ Janet J. McGuiggan  
Janet J. McGuiggan  
Assistant City Solicitor

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DANIEL HOUDE,	)	
Plaintiff	)	
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ROBERT TURGEON, STEPHEN	)	
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HALLORAN and THOMAS C. DUFFY	)	C.A. NO. 05-40075FDS
Defendants	)	

AFFIDAVIT OF JANET J. MCGUIGGAN

I, Janet J. McGuiggan, make the following statement under oath:

(1) The C.O.R.I. sought regarding Plaintiff Daniel Houde will be used exclusively for witness impeachment and trial strategy related to the above-captioned matter.

(2) The C.O.R.I. accessed through this grant will not be disclosed by unauthorized persons and/or in violation of Mass. General Laws c. 6, § 167 et. seq. or 803 C.M.R. 1.00 et. seq.

Signed under the pains and penalties of perjury on this 21st day of January, 2008.

/s/ Janet J. McGuiggan  
Janet J. McGuiggan  
Assistant City Solicitor

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HALLORAN, and THOMAS C. DUFFY	)	C.A. NO. 05-40075FDS
Defendants	)	

**ORDER**

Upon proper motion of Defendants Robert Turgeon, Stephen Gunnerson, Kevin Johanson, Matthew D'Andrea, Brian Halloran and Thomas C. Duffy ("Defendants"), it is hereby ORDERED that Defendants' counsel of record, Janet J. McGuiggan, City of Worcester Law Department, 455 Main Street, Room 301, Worcester, MA 01608, shall, upon payment of a reasonable fee, obtain access to Criminal Offender Record Information (CORI) reports maintained by the Criminal History Systems Board, as well as by any federal agency, concerning the following person:

DANIEL HOUDE, DOB 3/14/1964, SS #021-50-5152

It is further ORDERED that:

1. Defense counsel shall use the information contained in the CORI reports exclusively for purposes of witness impeachment and trial strategy in the above-captioned matter; and
2. Defense counsel shall not disclose the information contained in the CORI reports to any unauthorized person or otherwise use the information in a manner that violates Mass. Gen. Laws c. 6, §§ 167 et. seq. and 803 C.M.R. §§ 1.00 et. seq.

SO ORDERED.

By the Court:

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F. Dennis Saylor IV  
United States District Judge

Date: \_\_\_\_\_